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PTO/SB/21 (09-04)

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

3

Application Number

10/811,028

Filing Date

March 25, 2004

First Named Inventor

Bennett, Michael

Art Unit

1633

Examiner Name

Kelly, Robert M.

Attorney Docket Number

020714-002410US

ENCLOSURES (Check all that apply)☐

Fee Transmittal Form

☐

Fee Attached

☐

Amendment/Reply

☐

After Final

☐

Affidavits/declaration(s)

☐

Extension of Time Request

☐

Express Abandonment Request

☐

Information Disclosure Statement

☐

Drawing(s)

☐

Licensing-related Papers

☐

Petition

☐Petition to Convert to a
Provisional Application☐Power of Attorney, Revocation
Change of Correspondence Address☐

Terminal Disclaimer

☐

Request for Refund

☐

CD, Number of CD(s) _____

☐

Landscape Table on CD

☐

After Allowance Communication to TC

☐Appeal Communication to Board
of Appeals and Interferences☐Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)☐

Proprietary Information

☐

Status Letter

☒Other Enclosure(s) (please identify
below):Return Postcard and Response to Restriction
Requirement (2 pgs.)☐Certified Copy of Priority
Document(s)☐Reply to Missing Parts/ Incomplete
Application☐Reply to Missing Parts
under 37 CFR 1.52 or 1.53

Remarks

The Commissioner is authorized to charge any additional fees to Deposit
Account 20-1430.**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name

Townsend and Townsend and Crew LLP

Signature

Printed name

Chris J. Ullsperger

Date

December 21, 2005

Reg. No.

48,006

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature

Typed or printed name

Patricia A. Balero

Date

December 21, 2005



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

BENNETT and CHEN

Application No.: 10/811,028

Filed: March 25, 2004

For: METHODS OF TREATING
XEROSTOMIA AND
XEROPHTHALMIA

Confirmation No. 9644

Examiner: Kelly, Robert M.

Art Unit: 1633

RESPONSE TO RESTRICTION
REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement mailed November 21, 2005, Applicants elect, with traverse, to prosecute the claims of Group I, claims 2-23 and 34, drawn to a method of attenuating increases in radiation-induced free radicals or superoxide anions in a mammalian cell, comprising the administration of at least one nucleic acid encoding at least one protein, a plurality of salivary gland cells comprising nucleic acids, and specific nucleic acids utilized in the methods.

Applicants also elect the following species for Examination, per the Examiner's request:

- (a) manganous superoxide dismutase;
- (b) SEQ ID NO.1 (encoding pMB1-MnSOD);
- (c) administration prior to irradiation of a salivary cell.

The foregoing election is made with traverse. Examination of the subject matter recited in the claims of Groups I and IV together would not place a substantially greater burden on the Examiner. Both groups are in the same art class (514/44) and searching and examining the relevant art for both groups of claims should not pose substantial additional burdens on the Examiner. Accordingly, Applicants respectfully request the Examiner to withdraw the Restriction Requirement and to consider Groups I and IV together in the present case.

Moreover, Applicants submit that the species elections are unreasonably limiting. Applicants also can discern no reason for the Examiner to limit Examination solely to either expression of the vector "prior to" irradiation versus "after" irradiation, or solely to a single type of cell, at this stage of prosecution. Examining those species concurrently would not create undue burdens for the Examiner.

CONCLUSION

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5004.



Chris J. Ullsperger
Reg. No. 48,006

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